

EXHIBIT E

From: Ryan Carreon <rcarreon@higbeeassociates.com>
Sent: Wednesday, March 17, 2021 1:36 PM
To: Garcia, Roland (Shld-Hou-LT)
Cc: Mathew Higbee; McNeil, Ericka (LSS-HOU-IP-Tech); Evergreen, Alice (LSS-Hou-LT); Chretien, Mark G. (Shld-Hou-IP-Tech)
Subject: Re: Michel Keck v. Mix Creative Learning Center, LLC and Jacqueline P. Kenneally; United States District Court for the Southern District of Texas, Case No. 4:21-cv-00430; Our file no. 199472.010100

EXTERNAL TO GT

Hi Roland,

We are filing the motion for an extension later today. Since your client's answer is due on March 22, we asked for a 30-day extension to April 21.

Regarding registration, the works in question are registered as follows:

Title: #010907- Bulldog
Registration: VA 1-814-036
Date: 03-26-2012

Title: #020904- Labrador II
Registration: VA 1-814-036
Date: 03-26-2012

Title: German Shepherd II
Registration: VA 1-814-036
Date: 03-26-2012

Title: #120808- Shih Tzu
Registration: VA 1-814-036
Date: 03-26-2012

Title: #011701 – Snorkie
Registration: VA 2-104-131
Date: 05-23-2018

Title: #031302- Great Dane
Registration: VA 2-041-480
Date: 10-29-2016

Addressing some of your points, I don't see any basis for your clients' claim that the infringement was innocent. The statute requires your clients to prove that they "was not aware and had no reason to believe that his or her acts constituted an infringement of copyright." The test is objective and not subjective. While I understand your clients' position that they subjectively believe the conduct was not infringing, looking at the facts objectively tells quite a different story. Clearly, your clients knew who Ms. Keck was, and knew they were making copies of Ms. Keck's works. The copies that your clients made appear to have been downloaded from Ms. Keck's website, and contain Ms. Keck's trademark. Additionally, Ms. Keck's website has an entire page devoted to licensing her work for commercial use. There

is no record of your clients ever requesting permission to download copies of Ms. Keck's works and/or sell products bearing Ms. Keck's trademark. Far from being an "innocent" infringement, these facts point to the likely conclusion that your clients' conduct was willful.

Regarding damages, my client does engage in licensing her works and trademark in connection with commercial products. https://www.keckfineart.com/pages/art_licensing . We intend to present evidence of what her license fee would have been for this type of commercial use. With that said, Ms. Keck does not accept your clients' offer. Give that there are six works at issue, my client would be willing to settle for \$45,000, which amounts to \$7,500 per work. Please let me know your clients' response at your earliest convenience.

Ryan E. Carreon
Associate Attorney
Copyright Division

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On Tue, Mar 16, 2021 at 4:43 PM GarciaR@gtlaw.com <GarciaR@gtlaw.com> wrote:

Confidential Settlement Communication Subject to FRE 408

Thank you Mr. Carreon for the granting of the extension.

We look forward to hearing from you as to whether our settlement proposal is agreed, and if the settlement proposal is not agreed please provide the information requested below so that we may reconsider our proposal. Please also let me know how to make out the check.

Best regards,

Roland Garcia
Shareholder

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From: Ryan Carreon <rcarreon@higbeeassociates.com>
Sent: Tuesday, March 16, 2021 5:16 PM
To: Garcia, Roland (Shld-Hou-LT) <GarciaR@gtlaw.com>
Cc: Mathew Higbee <mhigbee@higbeeassociates.com>; McNeil, Ericka (LSS-HOU-IP-Tech) <mcneile@gtlaw.com>; Evergreen, Alice (LSS-Hou-LT) <evergreena@gtlaw.com>; Chretien, Mark G. (Shld-Hou-IP-Tech) <chretienm@gtlaw.com>
Subject: Re: Michel Keck v. Mix Creative Learning Center, LLC and Jacqueline P. Kenneally; United States District Court for the Southern District of Texas, Case No. 4:21-cv-00430; Our file no. 199472.010100

Hi Roland,

We are still waiting to hear back from the client re: your letter. In the meantime, we would be happy to grant you a 30-day extension. Since I don't believe you have entered an appearance yet, we will go ahead and make sure something gets filed today or tomorrow. Since I am working from home for the foreseeable future, the best way to reach me is by email or on my cell at 626-533-7357.

Ryan E. Carreon
Associate Attorney
Copyright Division

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On Tue, Mar 16, 2021 at 3:00 PM <GarciaR@gtlaw.com> wrote:

Confidential Settlement Communication Subject to FRE 408

Dear Mr. Higbee,

I called the phone number on your complaint, and received a voice recording from Mr. Carreon. Please advise if Mr. Carreon is the Attorney-in-Charge for this matter. If you are the Attorney-in-Charge, please provide to me your phone number.

Please also advise if our settlement proposal, received by you yesterday via email and received again by you today via UPS, is agreed. Time is of the essence, as my client's answer date is approaching this Friday and we are attempting to avoid the unnecessary incurring of attorney's fees by both sides in this matter.

Further, if our settlement proposal is not agreed, please let me know today if you would agree to a 30-day extension for defendants to file an answer or other responsive pleading.

If you do not agree to the terms of our settlement proposal, please also state the basis for your position so that we may reconsider our proposal, or please provide any additional facts to support your prolonging of this matter in the court. For example, if you are aware of any actual damages incurred by your client due to the matters alleged (separate from alleged lost profits or statutory damages), please let me know today. We are not aware of any such damages. In fairness to my client, please be advised that if the court believes your continued prosecution of this matter is unreasonable under the circumstances, we reserve the right to seek all fees and costs incurred under 17 USC § 505, 28 USC § 1927, the Court's inherent powers, and the dictates of *Kirtsaeng*.

Thank you for your prompt consideration and response.

Roland Garcia
Shareholder

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From: Chretien, Mark G. (Shld-Hou-IP-Tech) <chretienm@gtlaw.com>
Sent: Monday, March 15, 2021 5:28 PM

To: mhigbee@higbeeassociates.com; rcarreon@higbeeassociates.com

Cc: Garcia, Roland (Shld-Hou-LT) <GarciaR@gtlaw.com>; McNeil, Ericka (LSS-HOU-IP-Tech) <mcneile@gtlaw.com>

Subject: Michel Keck v. Mix Creative Learning Center, LLC and Jacqueline P. Kenneally; United States District Court for the Southern District of Texas, Case No. 4:21-cv-00430; Our file no. 199472.010100

Confidential Settlement Communication Subject to FRE 408

BY EMAIL AND UPS

Mr. Higbee,

Please see attached.

Thanks and best regards,

Mark G. Chretien

Shareholder

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